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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,809	11/12/2003	C. Allen Smith	KCX-62-DIV (13267.1)	6952
22827	7590	10/11/2007		
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER	
			COLE, ELIZABETH M	
			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			10/11/2007 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/706,809

**Applicant(s)**

SMITH ET AL.

**Examiner**

Elizabeth M. Cole

**Art Unit**

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-15, 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 9-15,17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stehling, U.S. Patent NO. 5,382,631 in view of EP 0600482. . Stehling discloses linear ethylene polymer blends which may comprise components having a narrow molecular distribution. See abstract. The blend comprises linear ethylene. Suitable components for the blend include plastomer blend components in the density range of about 0.85-0.900 g/cc, very low density polyethylene blends components having a density in the range of 0.900 – 0.915 g/cc and linear, low density polyethylene blend components in the density range of about 0.915 – 0.940 g/cc. It is noted that the previous action incorrectly cited Stehling as teaching the plastomer component can have a density of 0.88-0.900 g/cc but Stehling actually teaches 0.85-0.900, which encompasses the claimed values of less than 0.870 g/cc. Example 5 discloses a composition where one component has a density of 0.884 g/cc and the other has 0.9348 g/cc and the components are present in equal parts. The resulting polymer can be extruded and formed into fibers and formed into nonwoven fabrics. See col. 24. The polymer can be formed into stretch films and therefore it is presumed to be elastic. Further, since the instant composition is identical to the claimed composition it would

necessarily have the same properties and characteristics. Example 2 discloses a composition where the components are present in amounts of 75 and 25 percent which is within the range in the newly amended claims. Stehling discloses meltspun, (i.e. spunbond) and meltblown fabrics. See col. 23, line 38-col. 24, line 48. Stehling discloses a blend as set forth above. Stehling teaches that the properties of the resulting material can be controlled by controlling the different components of the blend. See col. 6, lines 34-55. Stehling does not specifically describe the particular amounts of each component of the blend. EP '482 teaches a composition comprising a blend of a first ethylene alpha olefin which is present in amount of 50-99 % by weight having a density of 0.87 – 0.92 g/cc and a low density polyethylene with a density of 0.915 – 0.930 g/cc which is present in an amount of 2-50% by weight. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed the components of Stehling in the proportions set forth by EP '482, motivated by the expectation that these amounts were recognized as suitable in the art for forming blends.

3. Applicant's arguments filed 7/30/07 have been fully considered but they are not persuasive. Applicant argues that Stehling does not teach the claimed density of the component having the lower density. However, Stehling teaches a density range of 0.85-0.90 for the plastomer. This value was incorrectly cited in the previous action as 0.88-0.90. Therefore, this rejection will not be made final. Further, with regard to the claimed proportions, Stehling teaches generally forming blends of the components in order to vary and control the properties of the final product, such as tear strength,

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modulus, yield strength, clarity, gloss, haze, etc. See col. 6, lines 34-50. The examples of Stehling teach embodiments wherein the lower and higher density components are present in amounts of 50/50 and in an amounts of 75% for the lower density component and 25% for the higher density component. Therefore, Stehling teaches blends generally of the lower and higher density components which are within the claimed ranges. Further, Stehling teaches that the properties of the resulting blend can be controlled by varying the various components, and therefore it would have been obvious to one of ordinary skill in the art to have optimized the properties of the blend through the process of routine experimentation by controlling the various proportions of the components of the blend. Finally, EP '482 also teaches blends of higher and lower density polyolefins wherein the lower density component is present in amounts of 50-99 % and the higher density component is present in an amount of 2-50%. Therefore, the person of ordinary skill in the art would have been able to select the particular amounts of each component through the process of routine experimentation within the ranges as taught by EP '482, in order to arrive at a blend having the desired properties.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

/Elizabeth M. Cole/  
Primary Examiner, Art Unit 1771

e.m.c